

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIE E. BRADLEY,
Petitioner,
v.
BRIAN KIBLER,
Respondent.

No. 2:22-cv-00197 KJM DB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 5, 2023, the magistrate judge filed findings and recommendation, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within thirty days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Petitioner objects to the magistrate judge's findings and recommendations, and argues "[r]easonable minds can differ as to the intent of petitioner in this case." Objs. at 3, ECF No. 28.

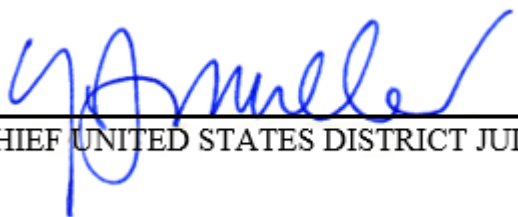
1 But to obtain habeas relief, petitioner faces a more difficult standard; he must show the state
2 court's decision "was so lacking in justification that there was an error well understood and
3 comprehended in existing law beyond any possibility for fairminded disagreement." *Harrington*
4 *v. Richter*, 562 U.S. 86, 103 (2011). For the reasons the magistrate judge notes, here the court
5 cannot find petitioner has met his burden.

6 Before petitioner can appeal this decision, a certificate of appealability must be issued.
7 See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). Where the petition is denied on the merits, a
8 certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a
9 substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "[T]he
10 showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that
11 reasonable jurists would find the district court's assessment of the constitutional claims debatable
12 or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The court finds the petitioner has not
13 made this showing and thus declines to issue a certificate of appealability.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The findings and recommendations filed April 5, 2023, are adopted in full;
- 16 2. Petitioner's petition for a writ of habeas corpus is denied; and
- 17 3. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
18 § 2253.

19 DATED: August 18, 2023.

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22 CHIEF UNITED STATES DISTRICT JUDGE
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